

Department of Energy

§ 950.23

shall review the notification for completeness within thirty (30) days of receipt. If the notification is not complete, the Claims Administrator shall return the notification within thirty (30) days of receipt and specify the incomplete information for submission by the sponsor to the Claims Administrator in time for a determination by the Claims Administrator in accordance with paragraph (c) of this section.

(b) *Covered Event Determination.* The Claims Administrator shall review the notification and supporting information to determine whether there is agreement by the Claims Administrator with the sponsor's representation of the event as a covered event (Covered Event Determination) based on a review of the contract conditions for covered events and exclusions.

(1) If the Claims Administrator believes the event is an exclusion as set forth in § 950.14(b), the Claims Administrator shall request within 30 days of receipt of the notification of a covered event information in the sponsor's possession that is relevant to the exclusion. The sponsor shall provide the requested information to the Administrator within 20 days of receipt of the Administrator's request.

(2) The sponsor's failure to provide the requested information in a complete or timely manner constitutes a basis for the Claims Administrator to disagree with the sponsor's covered event notification as provided in paragraph (c) of this section, and to deny a claim for covered costs related to the exclusion as provided in § 950.24 of this part.

(c) *Timing.* The Claims Administrator shall notify the sponsor within sixty (60) days of receipt of the notification whether the Administrator agrees with the sponsor's representation, disagrees with the representation, requires further information, or is an exclusion. If the sponsor disagrees with the Covered Event Determination, the parties shall resolve the dispute in accordance with the procedures set forth in subpart D of this part.

§ 950.23 Claims process for payment of covered costs.

(a) *General.* No more than 120 days of when a sponsor was scheduled to attain

full power operation and expects it will incur covered costs, the sponsor may make a claim upon the Department for the payment of its covered costs under the Standby Support Contract. The sponsor shall file a Certification of Covered Costs and thereafter such Supplementary Certifications of Covered Costs as may be necessary to receive payment under the Standby Support Contract for covered costs.

(b) *Certification of Covered Costs.* The Certification of Covered Costs shall include the following:

(1) A Claim Report, including the information specified in paragraph (c) of this section;

(2) A certification by the sponsor that:

(i) The covered costs listed on the Claim Report filed pursuant to this section are losses to be incurred by the sponsor;

(ii) The claims for the covered costs were processed in accordance with appropriate business practices and the procedures specified in this subpart; and

(iii) The sponsor has used due diligence to mitigate, shorten, and end, the covered delay and associated costs covered by the Standby Support Contract.

(c) *Claim Report.* For purposes of this part, a "Claim Report" is a report of information about a sponsor's underlying claims that, in the aggregate, constitute the sponsor's covered costs. The Claim Report shall include, but is not limited to:

(1) Detailed information substantiating the duration of the covered delay;

(2) Detailed information about the covered costs associated with covered delay, including as applicable:

(i) The amount of payment for principal or interest during the covered delay, including the relevant dates of payment, amounts of payment and any other information deemed relevant by the Department, and the name of the holder of the debt, if the debt obligation is held by a Federal agency; or

(ii) The underlying payment during the covered delay related to the incremental cost of purchasing power to

§ 950.24

10 CFR Ch. III (1–1–09 Edition)

meet contractual agreements, including any documentation deemed relevant by the Department to calculate the fair market price of power.

(d) *Supplementary Certification of Covered Cost.* If the total amount of the covered costs due to a sponsor under the Standby Support Contract has not been determined at the time the Certification of Covered Costs has been filed, the sponsor shall file monthly, or on a schedule otherwise determined by the Claims Administrator, Supplementary Certifications of Covered Costs updating the amount of the covered costs owed to the sponsor. Supplementary Certifications of Covered Costs shall include a Claim Report and a certification as described in this section.

(e) *Supplementary information.* In addition to the information required in paragraphs (b) and (c) of this section, the Claims Administrator may request such additional supporting documentation as required to ascertain the allowable covered costs sustained by a sponsor.

EFFECTIVE DATE NOTE: At 71 FR 46325, Aug. 11, 2006, § 950.23 was revised, effective Sept. 11, 2006. This text contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 950.24 Claims determination for covered costs.

(a) No later than thirty (30) days from the sponsor's submission of a Certification of Covered Costs, the Claims Administrator shall issue a Claim Determination identifying those claimed costs deemed to be allowable based on an evaluation of:

(1) The duration of covered delay, taking into account contributory or concurrent delays resulting from exclusions from coverage as established by the Claims Administrator in accordance with § 950.22;

(2) The covered costs associated with covered delay, including an assessment of the sponsor's due diligence in mitigating or ending covered costs, as set forth in § 950.23;

(3) Any adjustments to the covered costs, as set forth in § 950.26; and

(4) Other information as necessary and appropriate.

(b) The Claim Determination shall state the Claims Administrator's determination that the claim shall be paid in full, paid in an adjusted amount as deemed allowable by the Claims Administrator, or rejected in full.

(c) Should the Claims Administrator conclude that the sponsor has not supplied the required information in the Certification of Covered Costs or any supporting documentation sufficient to allow reasonable verification of the duration of the covered delay or covered costs, the Claims Administrator shall so inform the sponsor and specify the nature of additional documentation requested, in time for the sponsor to supply supplemental documentation and for the Claims Administrator to issue the Claim Determination.

(d) Should the Claims Administrator find that any claimed covered costs are not allowable or otherwise should be considered excluded costs under the Standby Support Contract, the Claims Administrator shall identify such costs and state the reason(s) for that decision in writing. A determination by the Claims Administrator that an event is an exclusion or that the sponsor has not provided complete or timely information relevant to the exclusion as specified in § 950.22 shall provide a basis for the Claims Administrator to find covered costs are not allowable. If the parties cannot agree on the covered costs, they shall resolve the dispute in accordance with the requirements in subpart D of this part.

§ 950.25 Calculation of covered costs.

(a) The Claims Administrator shall calculate the allowable amount of the covered costs claimed in the Certification of Covered Costs as follows:

(1) *Costs covered through Program Account.* The principal or interest on any debt obligation financing the advanced nuclear facility for the duration of covered delay to the extent the debt obligation was included in the calculation of the loan cost; and

(2) *Costs covered by Grant Account.* The incremental costs calculated for the duration of the covered delay. In calculating the incremental cost of